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PATENT
SOM01 P-318D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group : 3671
Examiner : G. Hartmann
Applicants : Philip J. Quenzi et al.
Serial No. : 10/728,620
Filing Date : December 5, 2003
For : **LIGHTWEIGHT APPARATUS FOR SCREEDING
AND VIBRATING UNCURED CONCRETE SURFACES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Via Facsimile No. (703) 872-9326

Dear Sir:


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I hereby certify that the following papers are being facsimile transmitted to the Patent and Trademark Office on the date shown below:

1. Invention Election (2 pages)

YOU SHOULD RECEIVE A TOTAL OF 3 PAGES.

Date: June 16, 2004


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Commissioner for Patents
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Alexandria, VA 22313-1450
Via Facsimile (703) 872-9326

Dear Sir:

INVENTION ELECTION WITH TRAVERSE

This is in response to the Office Action mailed May 26, 2004, having a one month period for response ending June 26, 2004. The Office Action requires a restriction to one of six inventions set forth therein. Applicants provisionally elect Invention III, namely, claims 90-103, drawn to a wheeled screeding device. This election is made with traverse. Applicants submit that at least Invention I (claims 26-40, drawn to a wheeled screeding device), should also be considered because consideration of Inventions I and III would not require any additional search on the part of the Examiner.

The Office Action indicates that Inventions I and III are distinct because Invention III does not require the grade setting device to be adjustably mounted to the vibrating member, such that the subcombination of Invention III has separate utility as a "slope measuring device". Applicants submit that the invention of claims 90-103 does not have separate utility from the invention of claims 26-40, such as a slope measuring device. Independent claim 90 is drawn to a wheeled screeding device that is operable to level and smooth an uncured concrete surface. There is no indication that the screeding device may be operable to measure a slope of the concrete or other surface, nor can Applicants see how the screeding device could be used to measure the slope of the concrete or other surface.

Moreover, Applicants submit that the grade setting device of Invention III is adjustably mounted to the concrete surface working member, which includes a vibratable member. The grade setting device is adjustable relative to the concrete surface working member to engage the uncured concrete surface and to establish a desired grade elevation for the uncured

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concrete surface. The grade setting device thus may establish the level or height or grade of the concrete surface upon which the concrete surface working member will rest. The grade setting device, as well as any other component of the screeding device, is not claimed as being operable to measure the slope of the concrete surface. Moreover, Applicants submit that it would not require any further searching on the part of the Examiner to consider Inventions I and III together, since claims 1 and 90 are both drawn to a wheeled screeding device having a wheeled support, a vibrating or vibratable member and a grade setting device. Therefore, Applicants submit that the claims of both Inventions I and III should be examined on the merits.

Furthermore, with respect to the distinction between Inventions II and III, the Office Action indicates that they are distinct inventions because the method claim (Invention II) includes the limitation of "moving said wheeled screeding apparatus at least one of over and through the uncured concrete", while the apparatus claims (Invention III) could be positioned adjacent the uncured surface such that the wheel is not movable through the concrete surface. Applicants respectfully submit that claim 90 (Invention III) includes the limitations that the wheels support the first end of the frame portion above the uncured concrete and that the wheeled support is moved over or through the uncured concrete. Applicants thus submit that the wheels of the screeding device of claim 90 are movable over or through the uncured concrete during operation of the screeding device, such that Inventions II and III should be considered together.

Accordingly, Applicants provisionally elect Invention III, but respectfully request consideration of Inventions I and/or II as well. An early and favorable action on the merits is respectfully requested.


Respectfully submitted,

PHILIP J. QUENZI ET AL.

By: Van Dyke, Gardner, Linn & Burkhardt, LLP

Dated: June 16, 2004.

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